IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. : 10715 & 10737 of 2004
and
C.C.Nos.854 & 855 of 2004

W.P.No.10715 of 2004

Between:

M/s. Sushee Electrical Works, Medak, rep. by its Managing Partner,
Sri A. Manik Reddy.

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Ltd., rep. by the Chief General Manager (Operation), Singareni Bhavan, Red Hills, Hyderabad.
2 The Superintendent Engineer (Operation), A.P. Central Power Distribution Company Limited, Medak.
3 the Divisional Engineer, (Transformers), A.P. Central Power Distribution Company Ltd., Medak.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or a direction or a writ more particularly a Writ in the nature of Mandamus declaring the inaction of the respondents in not awarding the repairs of sick distribution transformers work is arbitrary, illegal, void and violative of principles of natural justice and consequently direct the respondents to allot the work to the petitioner as per the rates fixed by the first respondent pursuant to the tender specification No.CGMO-29/03-04,dated 15-12-2003.

WRIT PETITION NO : 10737 of 2004

Between:

M/s.K.Anil Reddy, Narsapur,
rep., by its Managing Partner Sri A.Manik Reddy

..... PETITIONER

AND

1 The A.P.Central Power Distribution Company Ltd., rep., by the Chief General manager, (Operation), Singareni Bhavan, Red Hills, Hyderabad.
2 The Superintendent Engineer (Operation), A.P.Central Power Distribution Company Limited, Medak.
3 The Divisional Engineer (Transformers). A.P.Central Power Distribution Company Limited, Medak.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or a direction or a writ more particularly a writ in the nature of mandamus declaring the inaction of the respondents in not awarding the repairs of sick distribution transformers work is arbitrary, illegal, void and violative of principles of natural justice and consequently direct the respondents to allot the work to the petitioner as per the rates fixed by the first respondent pursuant to the tender specification No.CGMO-29/03-04, dated 15-12-2003.

CONTEMPT CASE NO : 854 of 2004

Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for flouting the orders passed by this Hon'ble Court in W.P.M.P.No.13590 of 2004 in W.P.No.10715 of 2004 dated 29-06-2004 willfully and deliberately.

Between:

M/s Sushee Electrical Works Rep. by A. Manik Reddy,

..... PETITIONER

AND

1 The A.P.C.P.D.C.L. Rep. by Venkatanarayana,
singareni Bhavan, Red Hills,
Hyderabad.
2 The A.P.C.P.D.C.L. Rep. by shaik Anwar,

Medak Medak Dist,
3 The A.P.C.P.D.C.L. Rep. by Peeraiah,
Medak Medak Dist,

....RESPONDENTS

C.C.No.855 of 2004

Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for flouting the orders passed by this Hon'ble Court in W.P.M.P.No.13621 of 2004 in W.P.No.10737 of 2004 dated 29-06-2004, willfully and deliberately.

Between:

M/s K.Anil Reddy, Narsapur, Rep. by its Managing Partner A.Manik Reddy.

..... PETITIONER

AND

1 Sri Venkatanarayana, Chief General Manager, A.P.C.P.D.C.L. (Operation), Singareni Bhavan, Red Hills, Hyderabad.

2 Sri Shaik Anwar, Superintendent Engineer, (Operation),
The A.P.C.P.D.C.L. Medak, Medak District.
3 Sri Peeraiah, Divisional Engineer, (Transformers),
The A.P.C.P.D.C.L. Medak, Medak Dist,

.....RESPONDENTS

Counsel for the Petitioner: MR.P.PRATAP REDDY (in all petitions)

Counsel for the Respondents: SMT.M.VINOBHA DEVI (in all petitions)

The Court made the following:

COMMON ORDER:

Heard Sri P. Pratap Reddy, learned counsel for the petitioners, and Smt. M. Vinobha Devi, learned Standing Counsel for the respondents, in both the writ petitions as well as the contempt cases.

Since common question arising in both the writ petitions, they have been taken up together. In fact, both matters came up in the contempt cases filed by the petitioners as against the interim order, dated 29-06-2004, in W.P.M.P. Nos.13590 & 13621 of 2004, passed in both the writ petitions, respectively. At the request of the learned counsel for both parties, the main writ petitions are taken up for final disposal along with the contempt cases.

The case of the petitioners in both the writ petitions runs on the lines to the effect that all along they have been entrusted by the former A.P. Electricity Board and the present A.P. Central Power Distribution Company Limited, Hyderabad repairing work of failed distribution transformers, pursuant to the tenders issued earlier, from time to time. Since over
15 years, the petitioners have been discharging their duties to the utmost satisfaction of the respondents. It was also pointed out that after satisfying the pre-qualification of the tenderers regarding their technical ability, price-bids will be opened and all the pre-qualified tenderers will be asked to give their consent for executing the works at the lowest rate. On such consent, all the technically qualified tenderers will be allotted the works at the accepted rates. This practice was in vogue in all the Central Government undertakings and erstwhile Electricity Board and the Company to encourage and help the small-scale industries like the petitioner. However, it is now pointed out, as per the impugned notification, dated 15-12-2003 published in Eenadu Telugu daily, in both the writ petitions, the tenders have been called afresh by the respondents for repairing the failed distribution transformers available at various SPM centers in Ananthapur, Kurnool, Mahabubnagar, Nalgonda, Medak, Ranga Reddy and Hyderabad Districts. In response thereto, the petitioners submitted their tenders on 07-01-2004 before 12.00 hours and the same were opened at 16.00 hours on the same day. However, the petitioners did not hear anything from the respondents. Further it is stated that they were not called for negotiations nor intimated about any allotment of work to the petitioners. Further it is also stated that they have filed their respective representation on 26-05-2004 and 27-05-2004 before the 2nd respondent requesting to allot the work as per the rates fixed by the 1st respondent, especially on the ground that they are doing similar works for the last 15 years without any complaint and they cannot be totally ignored, hence non consideration of the petitioners' claim

in this regard, is arbitrary, discriminatory and violative of Articles 14, 19(1)(g) and 300-A of the Constitution of India. Hence, this writ petition.

At the time of admission, this Court in pursuance of the interlocutory applications filed by the petitioners in both the cases passed interim directions to the effect that the respondents shall entrust the work to the petitioners also as per the rate that was fixed with reference to L1, but the same were not complied with by the respondents, hence the petitioners filed the contempt cases.

In the counter affidavit, filed on behalf of the

2nd respondent, it is stated that the claim of the petitioners in regard to their entitlement for repairs to sick distribution transformers was totally denied. Further it was denied that the respondents have allotted plots to the petitioner at

sub-stations for construction of sheds. However, it was pointed out that the petitioners were asked to construct sheds in the property owned by the APCPDCL and the entire cost of construction of sheds was paid to the petitioners.

The petitioners are purely private contractors and are not the owners of the sheds. The tender notification, dated

15-12-2003, was opened on 07-01-2004 in the presence of the contractors including the petitioners on a comparative statement of all the tenders. L-1 bidder was communicated for its willingness for the rates (reworked rates) along with other contractors i.e., L-2 to L-4 for carrying out the repairs to sick distribution transformers, as the rates quoted by the above firms are lowest. As the petitioners stand at L-8 and

L-9 respectively, they were not called for negotiations.

The respondents have already entered with an agreement with L-1 to L-4, after complying the due procedure, therefore it was stated that absolutely the petitioners have no right, hence, the writ petition is liable to be dismissed.

Upon hearing the learned counsel appearing for both the parties and perusal of the material available on record, the claim of the petitioner squarely rests only on the ground that all along they have worked as contractors and doing the

repairing works of the sick distribution transformers for the last 15 years without any complaint, hence they are entitled to continue. There is no dispute in regard to the earlier occasions that the petitioners were allotted repairing works. Even at this time, the tenders have been called where the petitioners themselves offered their tenders and participated in the very process itself and having informed the petitioners that they stand at L-8 and L-9 respectively, negotiations initiated by the respondents with all the tenderers including the petitioners to which no reason shown to the petitioners and ultimately the other tenders were found more acceptable to allot the work and the agreements have already been executed. Now coming to the transactions, which are purely contractual, no right as such can be vested nor enforceable either in exercise of the powers under Article 226 of the Constitution of India or otherwise. The writ petitions arise out of the contract were filed beyond the time period and the petitioners having participated in the tender, found to be not entitled to allot the works as the rates quoted by them are higher than the rates quoted by the L-1 to L-4, and therefore, they were not called for the negotiations made by the respondents, it is not open for the petitioners to call back any such claim of existing contracts and seek either work or go for any other relief by way of writ petition.

In the circumstances, I do not find any merit in the claim of the petitioners, much less, in the writ petitions.

The claim of the petitioners is totally misconceived and unenforceable, as such, no relief can be granted. The Writ petitions are devoid of any merit and the same are accordingly dismissed without any order as to costs.

Consequently, I do not find any justification in seeking to comply with the interim direction of this Court, dated

29-06-2004, hence the question of any contempt does not arise, more so, when the very writ petitions are dismissed.

In the circumstances, the contempt cases shall also stand dismissed without any order as to costs.

_____

B.PRAKASH RAO, J

Dated: 04-07-2005

LSK

To

1 Sri Venkata Narayana, Chief General Manager (Operation),A.P. Central Power Distribution Company Ltd., Singareni Bhavan, Red Hills, Hyderabad.
2 Sri Shaik Anwar, Superintendent Engineer (Operation), A.P. Central Power Distribution Company Limited, Medak.
3 Sri Peeraiah, Divisional Engineer, (Transformers), A.P. Central Power Distribution Company Ltd., Medak.

4 Two C.D. copies.